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Question of the Falkland Islands (Malvinas)

Letter dated 10 February 2014 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

In accordance with instructions received from the Government of the United Kingdom of Great Britain and Northern Ireland, I have the honour to refer to the letter dated 3 January 2014 from the Permanent Representative of the Republic of Argentina to the United Nations to you. I enclose herewith a detailed response to the specific points made by the Permanent Representative (see annex).

The United Kingdom Government attaches great importance to the principle of self-determination as set out in Article 1.2 of the Charter of the United Nations and article 1 of the International Covenant on Civil and Political Rights. That principle underlies our position on the Falkland Islands.

It is of deep regret to the Government of the United Kingdom of Great Britain and Northern Ireland and the Falkland Islands Government that the Government of Argentina continues to deny that these fundamental human rights apply to the people of the Falkland Islands, and continues to act in ways which go against the principles established in the United Nations Charter.

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly, under agenda item 44.

(*Signed*) Mark **Lyall Grant**

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Annex to the letter dated 10 February 2014 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

The United Kingdom of Great Britain and Northern Ireland recalls its letter to the Secretary-General of 17 January 2013 (A/67/703).

The United Kingdom is clear about both the historical and legal positions on the sovereignty of the Falkland Islands. No civilian population was expelled from the Falkland Islands on 3 January 1833. An Argentine military garrison had been sent to the Falkland Islands three months earlier in an attempt to impose Argentine sovereignty over British sovereign territory. The United Kingdom immediately protested and later expelled the Argentine military garrison on 3 January 1833. The civilian population, who had previously sought and received British permission to reside on the Islands, were encouraged to remain. The majority voluntarily chose to do so. In 1833, the territorial borders of the Republic of Argentina did not include the geographical southern half of its present form, nor any territory in the Falkland Islands, Antarctica or South Georgia and the South Sandwich Islands.

British sovereignty over the Falkland Islands dates back to 1765, some years before the Republic of Argentina even existed. The United Kingdom has never implanted any civilian population; all civilians have voluntarily migrated to, or been born in, the Falkland Islands. Civilian migrants voluntarily came from a large number of countries, as they did throughout the whole Americas region, including Argentina, during the nineteenth century. The Republic of Argentina's claim to the Islands, which it bases on the principle of disruption to its territorial integrity, is without foundation, as the Islands have never legitimately been administered by, or formed part of, the sovereign territory of the Republic of Argentina.

The United Kingdom remains committed to defending the rights of the people of the Falkland Islands to determine their own political, social and economic future. The United Kingdom once again urges the Government of Argentina to respect the outcome of the referendum held on the Islands in March 2013 in which the Falkland Islanders categorically made their wishes known to the international community by 99.8 per cent of the electorate deciding to maintain their current political relationship with the United Kingdom. There will be no negotiation on the sovereignty of the Falkland Islands unless and until the Islanders so wish.

The United Kingdom notes that the Republic of Argentina regularly refers to regional statements of diplomatic support for Falkland Islands sovereignty negotiations, including Organization of American States (OAS) General Assembly resolutions, United Nations General Assembly resolutions (the last of which was issued in 1988) and resolutions of the United Nations Special Committee on decolonization. However, none of these regional statements or specific Falkland Islands resolutions fully reflects the legally binding principle of self-determination enshrined in the Charter of the United Nations, nor the modern relationship between the United Kingdom and its Overseas Territories. Regional statements from OAS and others, or United Nations General Assembly resolutions, do not modify or dilute the obligation of nations to respect the Falkland Islanders' right of self-determination, enshrined in the Charter of the United Nations.

The Republic of Argentina's claims that the United Kingdom is "militarizing" the South Atlantic are wholly false. There has been no escalation in the United Kingdom's military presence in the South Atlantic and those assets which are in place are entirely defensive in nature and have remained unchanged for many years. In fact, the United Kingdom's military presence on the Falkland Islands has been significantly reduced over time. The military presence peaked at over 20,000 personnel in the aftermath of the illegal Argentine invasion of 1982. In the mid-1990s, the figure stood at around 1,800, and since 2002 it has remained at the current figure of around 1,200. It must be stated that the only reason that there has ever been a United Kingdom military presence in the Falkland Islands is because of the invasion of the Islands by Argentina in 1982.

Finally, the United Kingdom fully supports the Falkland Islands Government's legitimate decision to establish and manage a sustainable fisheries industry and to explore for hydrocarbon resources in Falkland Islands waters in full accordance with international law, including the United Nations Convention on the Law of the Sea and article 1, paragraph 2, of the International Covenant on Civil and Political Rights. The recent passage of Argentine domestic legislation which introduces criminal charges against any individual or company having any direct or indirect interest in hydrocarbon-related activities in the continental shelf of the Falkland Islands or South Georgia and the South Sandwich Islands is considered to be unlawful by the United Kingdom. The continental shelf of the Falkland Islands and South Georgia and the South Sandwich Islands does not form part of the Republic of Argentina's continental shelf, nor are their maritime areas recognized as part of the Republic of Argentina's continental shelf under international law. It therefore follows that Law 26.659 and any subsequent amendments do not apply to the continental shelf surrounding the Falkland Islands or South Georgia and the South Sandwich Islands. Accordingly, any attempt by the Republic of Argentina to enforce its domestic legislation against individuals or companies involved in hydrocarbons exploration on the said continental shelf would be contrary to international law.

The United Kingdom, the Republic of Argentina and the Falkland Islands Government have successfully discussed issues of mutual interest in the South Atlantic, such as fisheries and hydrocarbons issues, in the past (during the 1990s and early 2000s). It should be noted that this cooperation continued until the Government of Argentina walked away from the South Atlantic Fisheries Commission and unilaterally decided to withdraw in 2007 from the Joint Declaration on Cooperation over Offshore Activities in the South West Atlantic, signed in 1995. The United Kingdom and the Falkland Islands Government remain willing to discuss areas of mutual interest in the South Atlantic, with the precondition that representatives of the Falkland Islands Government must participate in any discussion of issues that affect the Falkland Islands people directly.